

REMARKS

Summary Of The Office Action & Formalities

Status of Claims

Claims 1-15 are all the claims pending in the application. By this Amendment, Applicant is amending claim 1. No new matter is added.

Claim Objections

Claim 1 is objected to at page 2 of the Office Action because of the following informality: in line 7, “its” should be changed to the correct claimed limitation.

Applicant is amending the claim to overcome this rejection.

Art Rejections

1. Claim 1-15 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 5-11 and 13-20 of copending Application No. 10/532,961.

2. Claims 1-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Walker et al. (US 5,564,414) in view of Barberi et al. (US 6,327,017) and further in view of Liou (US 5,895,159).

Applicant respectfully traverses.

Claim Rejections - Double Patenting

1. *Claims 1-15 In View Of Claims 1-3, 5-11 and 13-20 Of Copending Application No. 10/532,961.*

In rejecting claims 1-15 in view of claims 1-3, 5-11 and 13-20 of copending Application No. 10/532,961, the grounds of rejection state:

Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-11 of copending Application No. 10/532,961 encompass all the limitations of the above noted claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Office Action at page 3.

Applicant will address this rejection appropriately should one of the two applications in question be allowed and the Examiner makes the provisional obviousness-type double patenting rejection final.

Claim Rejections - 35 U.S.C. § 103

1. Claims 1-15 Over Walker et al. (US 5,564,414) In View Of Barberi et al. (US 6,327,017) And Further In View Of Liou (US 5,895,159).

In rejecting claims 1-15 over Walker et al. (US 5,564,414) in view of Barberi et al. (US 6,327,017) and further in view of Liou (US 5,895,159), the grounds of rejection state:

Walker et al. disclose an electronic display device (130) including a display member (131), the device being characterized in that the display member is permanent (col. 7, ll. 35-57), the energy required to change the display being created by interaction between two elements (123,135), thereby creating an electric pulse, the pulse being processed by an electronic circuit before being applied to the display member in order to change its display (col. 7, ll. 35-57), the display member is of the liquid crystal display (LCD) type as seen in Figure 2D, a fluid dispenser (10), a reservoir (13), striker pin (123), a spring (128). Walker et al. lack that no energy is required to keep the display unchanged and the display device operates without a battery. Barberi et al. teach the use of a bistable nematic liquid crystal display for use small portable devices (col. 19, ll. 50-55). Liou discloses a current producer (60) that produces an instantaneous current upon a pressing bar (31) striking an internal flint (col. 2, ll. 47-53) in order to avoid the use of an external power source (col. 1, ll. 45-55).

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to utilize the bistable nematic LCD of Barberi et al. in place of the LCD of Walker et al. in order to preserve power. The modified reference would require no energy to keep the display unchanged and only a small electric pulse to change it.

Further, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to have replaced the battery and switch mechanism of Walker et al. and Barberi et al. with the current producer of Liou and its associated components, in order to produce the electric pulse needed to change the LCD display without the need for an external power supply.

Office Action at pages 3-4.

As clearly spelled out in the Supreme Court decision of *KSR International Co. v. Teleflex Inc.*, “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, ***there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.***” 82 USPQ2d 1385, 1396 (2007) (emphasis added). Applicant submit that, when fairly considered as a whole, the applied art does not provide adequate grounds on which to base an obviousness rejection. To the contrary, the grounds of rejection rely on three references in an attempt to piece together the subject matter recited in claim 1, using Applicant’s disclosure and the language of claim 1 as the road map.

Indeed, the three references relied upon to reject the claims are in very different technical fields, and someone skilled in the art, at the filing date of the present application, would never have combined these references.

Walker et al. is directed to a metered medication dose counter and discloses a *very particular electronic counter with a permanent power supply*. As the Examiner correctly notes, the patent does not teach or suggest using a display device that operates without a permanent

power source. Moreover, there is no teaching or suggestion in the disclosure of any deficiency or problem that would lead one away from the powered display to one in accordance with the claimed subject matter.

Liou is directed to a *heat-melting glue gun* and is entirely unrelated to electronic display devices. Rather, Liou addresses the apparent problem of exposed electrical wires that supply the power for heating in conventional glue guns. Such power sources and associated dangers with hand-held glue guns that reach high temperatures are simply unrelated to the dose counter of Walker et al. and there would be *no rationale* for one skilled in the art to adopt all or part of the structure of Liou to modify the dose counter of Walker et al.

Moreover, the current producer 60 in Liou is used to *ignite gas jetting* from the nozzle 72. This application is totally irrelevant to the dose counter of Walker et al. and one would necessary have to rely on impermissible *hindsight reconstruction—not guided by common sense knowledge*—to lift this single feature from Liou and apply it in a totally different way to the dose counter of Walker et al. Such picking and choosing ignores the teaching of Liou as a whole.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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